

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

1 RACHEL A. ARELLANO,

2 No. C 08-04313 SBA (PR)

3 Plaintiff,

4 **ORDER DIRECTING PLAINTIFF TO
SHOW CONTINUED INTENT TO
PROSECUTE THIS ACTION AND TO
PROVIDE COURT WITH CURRENT
ADDRESS**

5 v.

6 J. BETTANCOURT, et al.,

7 Defendants.

8

9 /10 Plaintiff filed the instant pro se civil rights complaint under 42 U.S.C. § 1983.11 Pursuant to Federal Rule of Civil Procedure 41(b), a district court may sua sponte dismiss an
12 action for failure to prosecute or to comply with a court order. See Link v. Wabash R.R., 370 U.S.
13 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir. 1991). But such a dismissal
14 should only be ordered when the failure to comply is unreasonable. See id. A district court should
15 afford the litigant prior notice of its intention to dismiss. See Malone v. United States Postal Serv.,
16 833 F.2d 128, 133 (9th Cir. 1987). Pursuant to Northern District Local Rule 3-11, a party
17 proceeding pro se whose address changes while an action is pending must promptly file and serve
18 upon all opposing parties a notice of change of address specifying the new address. See L.R. 3-
19 11(a). The Court may, without prejudice, dismiss a complaint or strike an answer when: (1) mail
20 directed to the attorney or the pro se party by the court has been returned to the court as not
21 deliverable, and (2) the court fails to receive within sixty days of this return a written
22 communication from the attorney or pro se party indicating a current address. See L.R. 3-11(b).23 In the instant case, the Court received a letter from Mario P. Guevara, Jr., from the Financial
24 Services of the County of Santa Clara, Department of Correction. Mr. Guevara states that Plaintiff
25 "is no longer with the Department of Correction . . . [and], none of the remaining filling [sic] fee was
26 withheld from his [sic] account." (Jan. 22, 2009 Letter at 1.) Moreover, the Court notes that it has
27 been almost four months since Plaintiff has communicated with the Court. The record shows that
28

1 Plaintiff filed her prisoner trust account statement on October 24, 2008, and she has not
2 communicated with the Court since that date. Accordingly, it is in the interests of justice and
3 judicial efficiency for the Court to establish Plaintiff's current address and whether she intends to
4 continue to prosecute this action.

5 In light of the foregoing, Plaintiff shall file with the Court a notice of her current address and
6 her continued intent to prosecute no later than **thirty (30) days** from the date of this Order. Failure
7 to timely do so shall result in **dismissal of this action without prejudice** under Federal Rule of
8 Civil Procedure 41(b).

9 IT IS SO ORDERED.

10 DATED: 2/10/09

Saundra B Armstrong
11 SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 RACHEL A. ARELLANO,

5 Plaintiff,

6 v.

7 J. BETTANCOURT et al,

8 Defendant.
9 _____ /

Case Number: CV08-04313 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 11, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Rachel Ann Arellano DNT245 - 08047537
Santa Clara County Jail
Elmwood Facility
701 S. Abel Street
Milpitas, CA 95035

Dated: February 11, 2009

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk